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ELECTRONIC SURVEILLANCE OF
FOREIGN EMBASSIES

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 7, 1978

• Mr. MAZZOLI. Mr. Speaker, H.R. 7308, the Foreign Intelligence Surveillance Act of 1978, will reach the floor soon.

Passage of this important legislation is supported by the intelligence community as well as civil liberty groups. Yet, some of the bill's opponents allege that the provision of H.R. 7308 requiring that a judicial warrant be issued before a foreign intelligence electronic surveillance can take place is a threat to national security because:

First. It would increase the possibility of leaks of sensitive intelligence sources and methods;

Second. It would impede and complicate intelligence collection activities; and

Third. It would involve the judicial branch of government for the first time, in the making of foreign policy and national intelligence policy.

These critics are especially concerned in connection with these risks, about warrants allowing electronic surveillance of a foreign embassy located in the United States.

Furthermore, beyond the risks the opponents see in a warrant procedure, opponents question the need and purpose of such a procedure.

The purpose of the proposed warrant procedure in H.R. 7308 is not to complicate or impede the surveillance of foreign diplomats or intelligence agents.

The purpose is, rather, to protect Americans who communicate with embassies—or who are mentioned in embassy communications.

In the past, embassy surveillances have been used as a pretext to observe American citizens to acquire political or personal information about them for purposes extraneous to the gathering of foreign intelligence information.

The judicial warrant procedure established under H.R. 7308 would prevent the recurrence of such abuses by requiring a high-ranking Government official to certify in writing to the judge that the purpose of the proposed surveillance is to obtain foreign intelligence information.

H.R. 7308 further requires the judge to approve, and later review, procedures designed to minimize the acquisition,

retention and dissemination of information about U.S. citizens and permanent resident aliens obtained from surveillance of a foreign embassy.

In answer to the argument that the bill unwisely involves the judicial branch of Government in the making of foreign and intelligence policy, H.R. 7308 restricts the information required to be provided to the judge to that information necessary to enable the judge to evaluate a given set of facts against a statutory framework and render a decision.

Thus, when the surveillance target is a foreign embassy, much less information needs to be provided to the judge than when the target is an individual person or foreign corporation operating in the United States.

The judge's finding under H.R. 7308, is limited to a determination that the target is, in fact, a foreign embassy and that the proposed minimization procedures meet the statutory standards. The judge has no authority whatsoever to decide the wisdom of a particular embassy surveillance or to otherwise involve himself in day-to-day intelligence activities.

In answer to the charge that H.R. 7308 would jeopardize the Nation's intelligence community and that it would impede necessary intelligence activities, the gentleman from Illinois, Mr. MORGAN MURPHY, inserted in the RECORD of July 20, copies of letters of support for H.R. 7308 written by Adm. Bobby Inman, the Director of the National Security Agency and Judge William Webster, the Director of the Federal Bureau of Investigation.

At this time, I wish to insert in the RECORD another letter of support for H.R. 7308. This is from Adm. Stansfield Turner, Director of Central Intelligence and head of the Central Intelligence Agency.

The letter follows:

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., June 22, 1978.

HON. ROBERT W. KASTENMEIER,
Subcommittee on Courts, Civil Liberties, and
the Administration of Justice, Committee
on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that your Subcommittee will be holding a hearing on 22 June on H.R. 7308, the "Foreign Intelligence Surveillance Act of 1978," as amended by the Permanent Select Committee on Intelligence. The purpose of this letter is to advise you that this legislation has my full support.

I support the bill because I believe it strikes a fair balance between intelligence needs and privacy interests, both of which are vitally important. In my view the legislation will place the activities with which it deals on a solid and reliable legal footing and help to rebuild public confidence in the national intelligence collection effort and in the agencies of government principally engaged in that effort.

The procedures envisaged by H.R. 7308 will unquestionably involve some risks that sensitive intelligence information may be disclosed. But on balance, these risks are acceptable, and while compliance may involve some burdens, I cannot say that any proper or necessary governmental purposes will be frustrated by the bill or that vital intelligence information, having such value as to justify electronic surveillance as a method of collection, will be lost. For these reasons I strongly urge that this legislation be enacted as soon as possible.

Your sincerely,

STANSFIELD TURNER

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